IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.7.2006

Coram:

The Hon'ble Mr.JUSTICE S.RAJESWARAN

C.R.P. No.1071 of 1997

The President
Communist Party (Rightist) and
Vivasayee Sangham
Samayanallore

.. Petitioner/ 2nd Respondent

vs.

1.Mohammad Rahamatul Ansari
2.Mohammad Rahamatulla
3.Mohammad Sathayathulla
Minor represented by his
guardian and mother Kathija Nachiar
4.Rajalakshmi

.. Respondents (Petitioners 1 to 3 and Ist Respondent)

Revision Petition filed u/s 25 of the Tamilnadu Buildings Lease and Rent Control Act 18/50 as amended by Act 23/73 and 1/80 against the order dated 7.2.1997, passed in R.C.A.No.33/1996 on the file of the Appellate Authority (Sub Court) at Nagapattinam confirming the order dated 20.2.1989 made in R.C.O.P.No.1/1987, on the file of the Rent Controller, District Munsif Court, Nannilam.

For Petitioner : Mr.Srinath Sridevan
For Respondents : Mr.T.R.Rajaraman

ORDER:

This Revision Petition has been filed against the order dated 7.2.1997, passed in R.C.A.No.33/1996 on the file of the Appellate Authority (Sub Court) at Nagapattinam confirming the order dated 20.2.1989 made in R.C.O.P.No.1/1987, on the file of the Rent Controller, Nannilam.

2. The 2nd respondent in RCOP No.1/1987 on the file of the Rent Controller, Nannilam is the revision petitioner before this court.

3. RCOP No.1/1987 was filed by respondents 1 to 3 herein against the revision petitioner and the 4th respondent herein under

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Sec.10(2)(i)(a) of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960 (hereinafter called the Rent Control Act'). The landlords pleaded that the petition property was owned by them having purchased the same from the husband of the 4th respondent herein on 30.9.1971. Thereafter the vendor, i.e., the husband of the 4th respondent herein became the tenant of the very same property on a monthly rent of Rs.60/-. The husband of the 4th respondent herein has not been prompt in paying the monthly rental amounts committing wilful default always and he had also sub-let the petition premises to the revision petitioner. As the husband of the 4th respondent passed away, the RCOP was filed against the 4th respondent herein and the revision petitioner alleging a default of Rs.2,160/- towards rental arrears for three years. It was further stated in the RCOP that as early as on 4.11.1984 itself a notice was sent to the husband of the 4th respondent herein and the revision petitioner claiming recovery of possession of the petition property and even though the notice was received by them, they have not chosen to file any reply and therefore they filed the RCOP No.1/1987.

4. The revision petitioner resisted the RCOP by contending that the petition property was purchased by the husband of the 4th respondent on behalf of the Indian Communist Party in his capacity as the President of the area for the benefit of the party. The party office has been functioning from the petition property for the past 40 years and there was no landlord and tenant relationship between the petitioners in the RCOP and the husband of the 4th respondent herein. Similarly there is no question of sub-letting the property to the revision petitioner as the petition property itself was purchased by the husband of the 4th respondent herein for the benefit of the party. The building was constructed by the office bearers of the party when they were holding the position in the party.

5. The Rent Controller rejected the case of the revision petitioner herein and allowed the RCOP No.1/1987 and the appeal filed by the revision petitioner in RCA No.33/1996 was also dismissed by the Appellate Authority. Aggrieved by the concurrent orders of the Authorities below, the above Civil Revision Petition has been filed under Sec.25 of the Rent Control Act, 1960.

6. Heard the learned counsel for the revision petitioner as well as the learned counsel for the respondents. I have also perused the documents and the judgment relied on by them in support of their submissions.

7. The revision petitioner even though claimed ownership to the petition property has miserably failed to prove the same by letting in any evidence leave alone acceptable evidence. The oral evidence let in on behalf of the revision petitioner deposed before the Rent Controller is that the property was purchased by the husband of the

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4th respondent herein from the party fund and necessary accounts were maintained at the party office for the above said purchase. No evidence was let in to prove the same by way of producing those accounts maintained at the party office. The earlier notice sent by the landlords (Respondents 1 to 3) marked as Ex.P1 sent to the husband of the 4th respondent and the revision petitioner claiming arrears of rent was received by both of them as evident from Ex.P4, but no reply was sent claiming ownership and disclaiming landlord and tenant relationship as contended by them now. Therefore, on the basis of the oral and documentary evidence, the rent controller passed an order of eviction and the same was affirmed by the appellate authority also. By going through the order of the appellate authority confirming the order of the rent controller, I do not find any illegality nor infirmity warranting interference under Sec.25 of the Rent Control Act, 1960. In fact the rent controller after evaluating 21 documents on the side of respondents 1 to 3 herein and the oral evidence has passed the order of eviction and the appellate authority elaborately re-evaluated the evidence in the proper perspective to confirm the order of the rent controller. When both the authorities have concurrently rendered factual finding based on the evidence and when those findings are reasonable and legally acceptable, this court cannot interfere with such concurrent findings in its revisional jurisdiction under Sec.25 of the Rent Control Act.

8. Therefore, I do not find any merits in the above Civil Revision Petition and consequently the same is dismissed. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

sks

To

1. The Rent Controller (District Munsif), Nannilam.
2.The Appellate Authority (Sub-Judge) Nagapattinam.
3. The Record Keeper, V.R. Section, High Court, Chennai-104.

1 cc to Mr.Srinath Sridevan, Advocate, sr. 33800
1 cc to Mr.T.R. Rajaraman, Advocate, sr. 33991

C.R.P.1071/97.

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